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EX PARTE OR LATE FILED

Bell Atlantic

June 29, 1999

EX PARTE

Mr. Glenn Reynolds
Acting Chief-Enforcement Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Mr. Reynolds:

RE: CC Docket No. 98-170, Truth-in-Billing and Billing Format

I am writing to follow-up on recent discussions with you and Bureau staff about clarifying the Commission's new regulations on the format and content of telephone bills. As we have indicated, Bell Atlantic believes that its existing formats comply with the new rules. However, if our understanding of one of those requirements is not correct (and the staff has suggested that it is not), then Bell Atlantic cannot be in compliance by the rule's effective date, July 26.

Section 64.2001(a)(2) requires that telephone bills provide "notification to the customer that a new provider has begun providing service." Bell Atlantic's bills meet this requirement. First, Bell Atlantic's bills contain statements to inform the customer when she has changed her presubscribed inter- or intraLATA toll carriers. Second, the summary of charges section of the bill lists in one place all providers whose charges are included on that month's bill. A review of this list permits the customer to see at a glance when a new provider has begun providing service. If the Commission believes it to be necessary, Bell Atlantic could add language in this part of the bill urging customers to review this list carefully to identify new service providers.

The staff has suggested that language in the order adopting these rules indicates that the Commission had additional notification in mind as to non-presubscribed carriers. Paragraph 35 of that order suggests that the billing company must compare the current bill with the previous month's bill and then "highlight" new providers in some way. This is not required by the words of the new rule, however, which requires only "notification." In addition, as discussed below, the Commission could not lawfully have adopted such a requirement. Absent confirmation that the current Bell Atlantic practice described above is consistent with the rule's "notification" requirement or a Commission stay of this requirement, Bell Atlantic will be forced to seek a stay of the rule pending judicial review.

If the rules require this comparison and highlighting, then it would be impossible for Bell Atlantic to comply by July 26. Today, Bell Atlantic has no systems to do such a comparison. New databases would have to be developed to contain the latest month's billing information for all Bell Atlantic customers. As new bills are being prepared, the systems that do that work would have to stop bill processing to check with these new databases to identify any new providers. The billing systems would also have to be modified to receive this information, process it and print it on the bill. These new databases and modifications would have to be made for all five of Bell Atlantic's existing billing (including the four legacy systems which we are phasing out and plan to stop using within the next 18 months). We estimate that it would take in the neighborhood of 200,000 person-hours to do all this work. There is no reason to believe that the public benefit to be gained by "highlighting" in addition to "listing" justifies costs and dislocation of this magnitude.[1]

The Notice in this proceeding sought comment on whether the Commission should require that bills identify new services, not new service providers.[2] Bell Atlantic and numerous other commentors explained that such a requirement would be prohibitively expensive.[3] The Commission accepted that conclusion and rejected such a requirement.[4] However, the order went on to assert, without any record support whatever, that "highlighting each new service provider, as opposed to each new service, will be considerably more economical to implement."[5] As described above, this is simply not the case. The Commission's conclusion, therefore, is not supported by the record and is arbitrary and capricious.

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1 The rule as interpreted by staff would produce bizarre results and would actually confuse consumers. The Commission has defined a "new service provider" as "any provider that did not bill for services on the previous billing statement." Section 64.2001(a)(2)(ii). Therefore, if a consumer does not use her presubscribed carrier in one month, that carrier becomes a "new service provider" under the rules the next time it bills the customer for service and would have to be "highlighted" as such. In addition, at least one major carrier has Bell Atlantic bill customers on a bi-monthly basis. Because there would never be a charge from this carrier on the customer's "previous billing statement," this provider would always be identified as "new," even where the customer had been using it for years. Consumers would surely find it confusing to have service providers that they have never changed highlighted as "new providers."

2 *Notice*, 13 FCC Rcd at 18185 ¶ 19.

3 Bell Atlantic comments at Attachment, "Answers to Specific Questions," at 6; Ameritech comments at 11-12; Sprint comments at 7-8; RCA comments at 4; MCI comments at 34-35; U S WEST comments at 5, 20; PCIA comments at 9.

4 *Order* ¶ 35.

5 *Order* ¶ 35.

Moreover, the Commission lacked authority to impose such a requirement. The Order indicates that the Commission found its authority to adopt its new rules in section 258 of the Act, the section that requires the Commission to adopt carrier change verification procedures to combat slamming.[6] Slamming, of course, is the unauthorized change in a customer's *presubscribed* carrier, and the anti-slamming provisions of the Act do not give the Commission jurisdiction to adopt rules having to do with non-presubscribed carriers. As the Commission recognized in this order, section 201(b) does not give it authority to impose any obligation on local exchange carrier billing services, as those services are not communications services subject to Title II of the Act.[7]

Bureau staff has asked whether it would be possible to change the industry EMI billing record standard to allow a service provider to send the billing entity a notification that it is a new service provider under this rule. The answer is that the EMI standard could be changed, and it typically takes at least a year for changes to be agreed to and implemented throughout the industry. However, you should understand that a service provider will not necessarily know whether it is "new" as that term is defined in the rules. Section 64.2001(a)(2)(ii) defines a "new service provider" as "any provider that did not bill for services *on the previous billing statement.*" A service provider has no way of knowing exactly when its charges are included on a customer's bill — it could be the day after it sends us billing information or three weeks later. Therefore, it will not know when it submits additional charges whether it "billed for services on the previous billing statement" or on some other billing statement. Bell Atlantic believes that this will force non-presubscribed service providers to err on the side of always assuming they could be new to a customer and populating the EMI new provider indicator. In the absence of data to determine whether a customer is new for an unknown monthly billing period, Bell Atlantic expects that ALL non-presubscribed service providers will appear under the heading of new provider each month, leading to more customer confusion and complaints. It is unclear that there is any public policy/consumer benefit from a telephone bill that list "new service provider" versus one that already flags other providers on the bill.

Bell Atlantic shares the Commission's concerns about cramming and has taken a number of steps to protect consumers from this practice. These actions have caused cramming complaints to drop significantly since last year. Bell Atlantic will continue to modify its billing practices in the interest of its customers, and the attached News Release is the latest example of such actions. The "new provider" rule as it is being construed will cost millions of dollars and provide little, if any, benefit. In fact, as written, it will actually confuse consumers more than help them. We again ask either that you agree that our existing bills satisfy the notification

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6 "[T]he truth-in-billing principles and guidelines adopted herein are justified as slamming verification requirements pursuant to section 258." Order ¶ 23.

7 *Detariffing of Billing and Collection Services*, Report and Order, CC Docket No. 85-88, 102 F.C.C.2d 1150 (1986). The order recognizes this limitation in the Commission's authority and explains that, as a result, "The guidelines adopted here apply to the carrier providing service to customers, not to those carriers' billing agents." Order ¶ 25. While this statement is true for most of the requirements of the new rules, it is not accurate with respect to the "new provider" requirement.

requirement of section 64.2001(a)(2) or that the Commission on its own stay the effectiveness of this rule.

Please call me if you have any questions concerning the above information.

Sincerely,

Marie Breslin

Attachment

cc: Magalie Roman-Salas
Lawrence Strickling
Dorothy Attwood
Anita Cheng
David Konuch
Christopher Wright
Kevin Martin
Linda Kinney
Sarah Whitesell
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NEWS RELEASE

Bell Atlantic

FOR IMMEDIATE RELEASE
June 29, 1999

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Bell Atlantic Escalates War on 'Crammers,' Enables Customers to Block Miscellaneous Charges

First Phone Company in Nation to Take Such Bold Action

NEW YORK – Starting today, Bell Atlantic customers from Maine to the Virginias can protect themselves from having fraudulent charges appearing on their phone bills. Bell Atlantic, a recognized leader in combating the fraudulent practice of "cramming," is the first telephone company in the country to offer customers the option of blocking "miscellaneous" charges. Miscellaneous charges are usually monthly expenses unrelated to actual telephone usage, like voice mail and Web-page design and maintenance.

Cramming, which surfaced late in 1997, is the practice of putting bogus miscellaneous charges that are unrelated to basic telephone use on phone bills.

"We have made it clear from the outset that Bell Atlantic has no patience for companies that use our bills to take unfair advantage of our customers," said Fred D'Alessio, group

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president for Bell Atlantic Consumer Services. "This is truly one of the most important customer-care initiatives our business has undertaken. Today's action hammers another nail into the coffins of those who prey on the innocent and unsuspecting."

The blocking option does not apply to charges from Bell Atlantic or the customer's selected local-toll and long distance companies. In addition, customers who choose this option could still be billed by Bell Atlantic for calls they make using other providers, such as "10-10" dial-around companies, since such charges are not considered miscellaneous.

Residential customers who wish to block such services from their phone bills can do so, starting today, by calling the appropriate toll-free number for their place of residence: **1-800-249-8719** for New York and the New England states and **1-888-579-8926** for Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia and Washington, D.C. Business customers can sign up by contacting the Bell Atlantic business office.

"Our customers can now make a choice as to whether they want these miscellaneous charges appearing on their bill," D'Alessio said. "Some may elect to keep the charges on the bill, because in many instances they are for legitimate services that the customer may want to use."

Bell Atlantic's efforts to protect its customers from cramming have served as a model for the rest of the telecommunications industry. Since launching its initiatives over a year ago, the company has discontinued providing billing services to some 80 telecommunications service providers. The move resulted in a decline of more than 80 percent in the number of cramming complaints from Bell Atlantic customers.

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"A year or so ago we were averaging some 30,000 complaints a month related to cramming," D'Alessio said. "And most of those complaints pointed to a few bad apples." Since taking action against these suspected crammers, Bell Atlantic's complaints from residential customers have plunged to roughly 5,000 a month.

Bell Atlantic, which serves 22 million households on the east coast, provides billing services for a wide variety of telecommunications providers. Many customers prefer having all of their telecommunications services on one bill.

Last summer, Bell Atlantic was one of the first telephone companies in the country to institute a "first-call resolution" policy. Under the new policy, when a customer calls Bell Atlantic with a cramming complaint, the company immediately removes the charge from the bill, instead of referring the customer to the company that initiated the charge.

Bell Atlantic routinely screens proposals for billing new services and reserves the right not to bill for objectionable services.

Bell Atlantic is at the forefront of the new communications and information industry. With 43 million telephone access lines and nine million wireless customers worldwide, Bell Atlantic companies are premier providers of advanced wireline voice and data services, market leaders in wireless services and the world's largest publishers of directory information. Bell Atlantic companies are also among the world's largest investors in high-growth global communications markets, with operations and investments in 23 countries.

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